

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

## ORDER

By Order of April 29, 2022 [Doc. No. 14], the Court ordered Plaintiff to pay the full filing fee for this action within 21 days, and gave notice that a failure to make the required payment or show cause for nonpayment would result in a dismissal of the action without prejudice to refiling. Plaintiff has not complied with the Order for payment but has filed a document entitled “Response to Order” [Doc. No. 16].<sup>1</sup> The Court liberally construes this *pro se* filing as a show-cause response.<sup>2</sup>

Upon consideration, it appears that Plaintiff seeks to challenge the constitutionality and application of the three-strikes provision of 28 U.S.C. § 1915(g). The Court finds no basis, however, to excuse Plaintiff from the operation of that provision. *See, e.g., White*

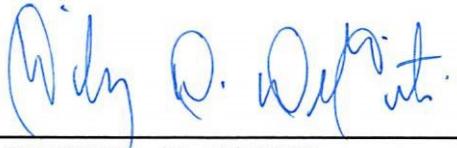
<sup>1</sup> Shortly after the April 29 Order, Plaintiff also sent other papers to the Clerk for filing that have no apparent connection to the fee payment issue. *See* Notice [Doc. No. 15].

<sup>2</sup> Because Plaintiff appears *pro se*, the Court must liberally construe his pleadings and arguments, but cannot act as his advocate. *See Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

*v. Colorado*, 157 F.3d 1226, 1235 (10th Cir. 1998) (“§ 1915(g) does not violate the guarantees of equal protection and due process”). Also, Plaintiff does not allege any facts that would satisfy the exception for a prisoner who is “under imminent danger of serious physical injury.” *See* 28 U.S.C. § 1915(g). Plaintiff’s filing provides no other basis to delay a dismissal for nonpayment.

**IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice to a future filing. A separate judgment of dismissal shall be entered.

**IT IS SO ORDERED** this 24<sup>th</sup> day of May, 2022.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge